

Assembly Bill No. 2366

CHAPTER 573

An act to amend Section 10235.52 of the Insurance Code, relating to long-term care insurance.

[Approved by Governor September 24, 2016. Filed with
Secretary of State September 24, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2366, Dababneh. Long-term care insurance.

Existing law provides for the regulation of long-term care insurance, as defined, and requires the Insurance Commissioner to review and approve individual and group policies, certificates, riders, and outlines of coverage. Existing law requires every long-term care policy to contain a provision that, in the event the insurer develops new benefits or benefit eligibility or new policies with new benefits or benefit eligibility not included in the previously issued policy, the insurer shall grant specified current policyholders certain rights, namely notifying the policyholders of the new benefits or benefit eligibility or new policy within 12 months and offering the new benefits or benefit eligibility to those policyholders, as specified. The insurer is required to file the notice to current policyholders with the Department of Insurance at the same time as the new policy or rider.

This bill would require the insurer to notify the policyholder of the availability of the new benefits or benefit eligibility or the new policy within 12 months of the date that the new policy series is made available for sale in this state. The bill would limit new benefits to including coverage for new long-term care services or providers that are material in nature, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 10235.52 of the Insurance Code is amended to read:

10235.52. (a) Each policy shall contain a provision that, if the insurer develops new benefits or benefit eligibility or new policies with new benefits or benefit eligibility not included in the previously issued policy, the insurer shall grant current holders of its policies who are not in benefit or within the elimination period all of the following rights:

(1) The insurer shall notify the policyholder of the availability of the new benefits or benefit eligibility or new policy within 12 months of the date that the new policy series is made available for sale in this state. The insurer

shall file the notice with the department at the same time as the new policy or rider.

(2) The insurer shall offer the policyholder new benefits or benefit eligibility in one of the following ways:

(A) By adding a rider to the existing policy and paying a separate premium for the new benefits or benefit eligibility based on the insured's attained age. The premium for the existing policy shall remain unchanged based on the insured's age at issuance.

(B) By replacing the existing policy or certificate in accordance with Section 10234.87.

(C) By replacing the existing policy or certificate with a new policy or certificate in which case consideration for past insured status shall be recognized by setting the premium for the replacement policy or certificate at the issue age of the policy or certificate being replaced.

(b) The insured may be required to undergo new underwriting, but the underwriting can be no more restrictive than if the policyholder or certificate holder were applying for a new policy or certificate.

(c) The insurer of a group policy as defined under subdivisions (a) to (c), inclusive, of Section 10231.6 shall offer the group policyholder the opportunity to have coverage for the new benefits and provisions extended to existing certificate holders, but the insurer is relieved of the obligations imposed by this section if the holder of the group policy declines the issuer's offer.

(d) For purposes of this section, new benefits means coverage for new long-term care services or providers that are material in nature. New benefits that are material in nature does not include changes to policy structure, benefits, or provisions that are minor in nature. Changes that are minor in nature include, but are not limited to, changes in elimination periods, benefit periods, and benefit amounts.